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GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:)	
American Federation of Government Employees, Local 2725)	
Complainant,)	
v.)	PERB Case No. 12-U-01
District of Columbia Housing Authority,)	Opinion No. 1218
Respondent.)	Motion to Stay Unfair Labor Practice Complaint

DECISION AND ORDER

I. Statement of the Case

This matter involves an Unfair Labor Practice Complaint (“Complaint”) filed by the American Federation of Government Employees, Local 2725 (“Complainant,” “AFGE,” or “Union”) against the District of Columbia Housing Authority (“Respondent,” “DCHA,” or “Agency”) on October 4, 2011. On October 21, 2011, DCHA filed Respondent District of Columbia Housing Authority’s Request to Extend Its Response Deadline (“Request”). PERB granted the Request (“Extension”), requiring Respondent to submit an answer to the Complaint by October 31, 2011, at 4:45 p.m. On October 31, 2011, the Agency filed Respondent District of Columbia Housing Authority’s Request to Stay the Matter (“Motion”). On November 1, 2011, Complainant filed Union’s Partial Opposition to Motion to Stay of Unfair Labor Practice Complaint (“Opposition”).

Therefore, Respondent’s Motion and Complainant’s Opposition are before the Board.

II. Discussion

In the Complaint, the Union alleges that the Respondent entered into a settlement agreement with the AFGE and subsequently refused to memorialize the agreement or comply with its terms, in violation of D.C. Code § 1-617.04(a)(1). See, Complaint at pgs. 1 and 3-7). In addition, the Union alleges that the Agency Director of Administration threatened a bargaining unit member that she would need to terminate, release, or lay off employees because of the grievance underlying the above-mentioned settlement agreement. See, Complaint at pgs. 2 and 7-8).

On October 21, 2011, Respondent requested an extension to file an answer to the Complaint. Respondent asserted that it “need[ed] additional time to brief its named employees while investigating the possibility of a settlement of this claim.” (Request at pg. 1). PERB’s Executive Director granted the Request, requiring Respondent to file an answer by 4:45 pm on October 31, 2011. See, Extension at pg. 1.

On October 31, 2011, Respondent filed a motion to stay the matter. In the Motion, the Agency states: “DCHA needs the requested stay due to the sudden and unexpected hospitalization of its principal witness, Lisa Dean, with whom undersigned Counsel will not be able to communicate for at least 90 days.” (Motion at pg. 1).

On November 1, 2011, AFGE filed a partial opposition to Respondent’s motion. In the Opposition, AFGE asserts:

[T]his complaint is a two-part complaint, the majority of which regards the Agency’s failure to implement the terms of a settlement agreement, and a small portion of which regards statements made by Ms. Dean to an employee which constituted interference with employees’ rights under D.C. Code Section 1, subchapter 6.

(Opposition at pg. 1). The Union further requests that the “portion of the matter unrelated to Ms. Dean not be stayed given the substantial delay in this matter which the Agency has already caused.” (Opposition at pg. 2). AFGE states:

While it is very unfortunate that an Agency official has become ill, it is also problematic that the Agency has prevented these employees from having their concerns addressed in a timely way. Especially given that Ms. Dean was not involved with the settlement of the arbitration case (the primary subject of the ULP), it is easily possible to accommodate the Agency’s concerns about Ms. Dean’s illness and address the employees’ concerns as well, simply by staying only the portion of the ULP related to Ms. Dean.

(Opposition at pg. 3). Complainant then requests that PERB bifurcate the case, with one case addressing the allegations against the Agency concerning the settlement agreement and the other addressing the allegations against Ms. Dean. See, Opposition at pg. 3.

After reviewing the Complaint, Motion and Opposition, the Board determines that AFGE’s allegations can be separated into those involving Ms. Dean and those not requiring her

testimony. The allegations regarding Ms. Dean are contained within several paragraphs of the Complaint and are severable from those regarding the settlement agreement. Further supporting the Board's decision to bifurcate the Complaint is the alleged substantial delay the bargaining member employees have already encountered when pursuing their grievance. See, Opposition at pgs. 2-3.

Therefore, the Board orders the Agency to respond to the Union's allegations contained in paragraphs one (1) through sixteen (16) and twenty (20) through twenty-four (24) of the Complaint. In addition, the allegations contained in paragraphs seventeen (17) through nineteen (19) are stayed for ninety (90) days. Any allegations concerning Ms. Dean in paragraphs one (1) through sixteen (16) and twenty (20) through twenty-four (24) are similarly stayed for ninety (90) days. Those portions of the allegations not concerning Ms. Dean are to be answered within 10 days.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Unfair Labor Practice Complaint filed by American Federation of Government Employees, Local 2725 is bifurcated.
2. The District of Columbia Housing Authority is ordered to respond to the above listed allegations concerning the alleged settlement agreement within ten (10) days of this Order.
3. The allegations concerning Ms. Lisa Dean are stayed for ninety (90) days.
4. Pursuant to Board Rule 559,1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

November 18, 2011

CERTIFICATE OF SERVICE

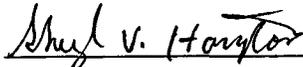
This is to certify that the attached Decision and Order in PERB Case No. 12-U-01 was transmitted via Fax and U.S. Mail to the following parties on this the 18th day of November 2011.

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